

APPENDIX F

SOIL MANAGEMENT PLAN OUTLINE

Soil Management Plan Outline

Waukegan Manufactured Gas and Coke Plant Site

1. Introduction
 - 1.1. ROD Remedy Summary
 - 1.2. Purpose Of SMP
 - 1.3. Organization Of SMP
2. Site Characterization After Remedial Action
 - 2.1. Extent Of Soil Removal
 - 2.2. Soil Data Summary For Remaining Soil
 - 2.3. Groundwater Management Zone
3. Institutional Controls
 - 3.1. Intended Land Use
 - 3.2. Land Use Controls
 - 3.3. Groundwater Use Controls
 - 3.4. Monitoring And Enforcement Of Controls
4. Excavation, Soil Management, And Ground Cover
 - 4.1. Excavation Requirements
 - 4.1.1. Backfill And Cover
 - 4.1.2. Dewatering Water Considerations
 - 4.2. Dredging Requirements
 - 4.3. Sampling, Testing, and Disposal
 - 4.3.1. For Backfill On Site
 - 4.3.2. For Removal From The Site
 - 4.4. Infiltration/Stormwater Management Expectations
5. Changes In Land Use
6. Contacts And Resources
 - 6.1. EPA, IEPA
 - 6.2. List Of Reports And Information Sources

Tables

ROD Cleanup Standards For Soil
Soil Data Summary Tables
Site-Specific Analytical Parameters

Figures

Soil Removal Locations, With Approximate Locations Of Utilities
Marginal Zone Cover Location
Soil Sample Data Summary, Selected Parameters

APPENDIX G

DEED WITH RESERVATION OF ENVIRONMENTAL EASEMENT

AND RESTRICTIVE COVENANT

APPENDIX G

DEED

FOR RECORDER'S USE ONLY

The Grantor, the City of Waukegan, Illinois (the "City") [similar document for Larsen Marine Services, Inc.], a municipality located in Lake County, Illinois, for and in consideration of \$10.00 and other good and valuable consideration in hand paid, conveys and quit claims to _____, of _____, as Grantee the real estate located in Lake County, Illinois, and legally described on Exhibit A, attached hereto and made a part hereof (the "Property").

NOTICE

THE REAL ESTATE CONVEYED HEREBY:

(i) Is subject to access rights and land use restrictions contained in a Declaration of Environmental Easement and Restrictive Covenants dated _____, 2004 and recorded _____, 2004 at the Office of the Recorder of Deeds for Lake County, Illinois as Doc. No. _____; a Declaration of Covenants, Conditions, Restrictions and Easements for (insert name of City's Owner's Association) dated _____, 2004 and recorded _____, 2004 at the Office of the Recorder of Deeds for Lake County, Illinois as Doc. No. _____; and a Soil Management Plan dated _____, 2004 and recorded _____, 2004 at the Office of the Recorder of Deeds for Lake County, Illinois as Doc. No. _____.

These rights and restrictions run with the land and are enforceable by the United States, the State of Illinois and the City of Waukegan.

(ii) Is part of the Waukegan Manufactured Gas and Coke Plant Site, Operable Unit 2 of the Outboard Marine Corporation Superfund Site, which is an NPL site; and

(iii) The United States Environmental Protection Agency selected a remedy for the NPL site, including the Property, and the City of Waukegan entered into a Consent Decree on _____, 2004 in the case of ***United States of America and the State of Illinois v. City of Waukegan, Illinois, Elgin, Joliet and Eastern Railway Company, General Motors Corporation, Larsen Marine Services, Inc. and the North Shore Gas Company***, Civil Action No. _____ (N.D. Ill.) recorded _____, 2004 at the Office of the Recorder of Deeds for Lake County, Illinois as Doc. No. _____, requiring implementation of the remedy and restrictions on the use of the Property.

This conveyance is also subject to covenants, conditions and restrictions of record; private and public utility easements; zoning and building laws and ordinances; acts of the Grantee and general real estate taxes for 200__ and subsequent years.

IN WITNESS WHEREOF, the Grantor has caused this Deed to be executed this _____, 200__.

GRANTOR:

CITY OF WAUKEGAN

By: _____

STATE OF ILLINOIS)
) ss
COUNTY OF LAKE)

On this __ day of _____, 200_, before me, the undersigned, a Notary Public in and for the State of Illinois, duly commissioned and sworn, personally appeared _____, known to be the _____ of City of Waukegan, a municipal corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute said instrument.

Witness my hand and official seal hereto affixed the day and year written above.

Notary Public in and for the
State of Illinois

My Commission Expires: _____.

SEAL

GRANTEE ACCEPTANCE

Grantee hereby accepts the Property, subject to the Declaration of Environmental Easement and Restrictive Covenants, the Declaration of Covenants, Conditions, Restrictions and Easements for (insert name of City's Owner's Association); covenants, notices, agreements, reservations, conditions, and exceptions hereinabove expressed.

The Grantee has caused this Grantee Acceptance to be executed this _____, 200_.

GRANTEE

[ENTITY]

BY: _____

TITLE: _____

STATE OF _____)
)ss
COUNTY OF _____)

The foregoing Acceptance was acknowledged before me this _____. 200 .

Notary Public

My commission expires:

SEAL

EXHIBIT A

The Property is described as follows:

[TO BE COMPLETED]

Address of Property: Waukegan, Lake County, Illinois

Real Estate Tax Property Index Nos.:

This instrument prepared by:

After recording return to:

Appendix H

Waukegan Coke Plant Superfund Site

Consent Decree

Declaration of Covenants, Restrictions and Easements

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IDJIM

**DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
(LARSEN MARINE Or City's Name as Substitute as appropriate for City Property
throughout) OWNERS ASSOCIATION**

This Declaration is made this _____ day of _____, 2004, by Larsen Marine Service, Inc. ("Declarant").

RECITALS

A. Declarant is the owner in fee simple of a certain parcel of real estate in Waukegan, Lake County, Illinois, and legally described in Exhibit "A" attached hereto and made a part hereof ("Property").

B. Declarant is obligated to establish an Owner's Association which will be responsible for maintaining the Property in compliance with the Consent Decree entered on _____, 2004 ("Consent Decree") in *United States of America and the State of Illinois v. the City of Waukegan, Illinois, Elgin, Joliet and Eastern Railway Company, General Motors Corporation, Larsen Marine Services, Inc. and the North Shore Gas Company*, Civil Action No. _____, (N.D. Ill) recorded _____, 2004 at the Office of the Recorder of Deeds for Lake County, Illinois as Document No. _____.

C. Declarant desires to provide for the establishment of an owner's association under this Declaration to comply with the terms of the Consent Decree and affecting the Property.

D. Declarant is desirous of submitting the Property, in whole, to the provisions of this Declaration.

NOW THEREFORE, Declarant hereby declares that the Property is, and shall be held, transferred, sold, conveyed and occupied, subject to the covenants, conditions, restrictions, reservations, and easements (sometimes hereinafter collectively referred to as the "Declaration") hereinafter set forth.

**ARTICLE I
DECLARATION PURPOSES**

Section 1. General Purposes. The Declarant is the owner of the Property located in the City of Waukegan, Lake County, Illinois, and desires to provide for the implementation of the Consent Decree and to protect the health of future owners of the Property and the environment.

(a) The Declarant desires to provide upon the Property, through its planning, the protection of human health and the environment by the imposition of the covenants, conditions, restrictions and easements, as hereinafter set forth, for the benefit of the Property and the Owners, as hereinafter defined, thereof.

(b) The Declarant, by the imposition of covenants, conditions, restrictions and easements and the reservation of certain powers unto itself, does intend to provide for the Property a plan to protect human health and the environment through compliance with the Consent Decree and to protect the values of the Property.

(c) The Declarant desires to protect the Owners of the Lots, as hereinafter defined, against such improper use of surrounding Lots as may endanger human health and the environment or the value of their property.

(d) The Declarant desires to provide for compliance with the Consent Decree and the Declaration of Environmental Easement and Restrictive Covenants dated _____, 2004 and recorded on _____, 2004 at the office of the Recorder of Deeds for Lake County, Illinois as Document No. _____.

Section 2. Declaration. To further the general purposes herein expressed, the Declarant, for itself, its successors and assigns, hereby declares that the Property, whether or not referred to in any deed of conveyance of such properties, at all times is and shall be held, transferred, sold, conveyed and occupied subject to the covenants and restrictions herein set forth. The provisions of this Declaration are intended to create mutual equitable servitude upon each Lot becoming subject to this Declaration in favor of each and all other such Lots; to create privity of contract and estate between the grantees of such Lots, their heirs, successors and assigns; and to operate as covenants running with the land for the benefit of each and all such Lots becoming subject to this Declaration, and the respective Owners of such Lots, present and future.

ARTICLE II **DEFINITIONS**

Section 1. The following words and terms, when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "Association" shall mean and refer to the (Larsen Marine of City) Owners Association, an Illinois not-for-profit corporation, and its successors and assigns.

(b) "Board" shall mean and refer to the Board of Directors of the Association as constituted from time to time.

(c) "By-Laws" shall mean the By-Laws of the Association, as amended from time to time, which are attached hereto as Exhibit B and made a part hereof.

(d) "Consent Decree" shall mean the Consent Decree entered on _____, 2004 in the case of *United States of America and the State of Illinois v. City of Waukegan, Illinois, Elgin, Joliet and Eastern Railway Company, General Motors Corporation, Larsen Marine Services, Inc. and the North Shore Gas Company*, Civil Action No. _____ (N.D. Ill.). and recorded on _____, 2004 at the Office of the Recorder of Deeds for Lake County, Illinois as Document No. _____.

(e) "Declaration of Environmental Easement" shall mean the Declaration of Environmental Easement and Restrictive Covenants dated _____, 2004 by the Declarant, Larsen Marine Service, Inc. (or City), a Delaware corporation qualified to do business in Illinois and recorded on _____, 2004 at the office of the Recorder of Deeds for the Lake County, Illinois as Document No. _____, which encumbers and affects all of the Property.

(f) "Declarant" shall mean and refer to Larsen Marine Service, Inc. (or City), a Delaware corporation, and its respective successors and assigns, whether such succession of assignment applies to all or any part of the Property. Any such successor or assignee shall be deemed a Declarant and entitled to exercise all or a portion of the rights of Declarant provided herein if designated as such by Declarant in any instrument recorded for such purposes.

(g) "Illinois EPA" shall mean the Illinois Environmental Protection Agency, and its successors and assigns.

(h) "Lot" shall mean each part of the Property, the size and dimension of which shall be established by the legal description in the Lot Deed conveying such Lot. A Lot may also be established by Declarant pursuant to the Subdivision Plat or by an instrument in writing executed, acknowledged and recorded by Declarant which designates a part of the Property as a Lot for the purposes of the Declaration.

(i) "Lot Deed" shall mean the deed of Declarant conveying a Lot to an Owner.

(j) "Member" shall mean and refer to every person or entity who holds membership in the Association.

(k) "Municipality" shall mean the City of Waukegan, Lake County, Illinois.

(l) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot, as hereinafter defined, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. The term "Owner" shall include the Declarant to the extent of the number of Lots owned by Declarant and also includes the interest of Declarant as contract seller of any Lot.

(m) "Property" shall mean and refer to the real estate legally described in Exhibit "A" attached hereto and made part hereof.

(n) "U.S. EPA" shall mean the U.S. Environmental Protection Agency, and its successors and assigns.

ARTICLE III

LARSEN MARINE OWNERS ASSOCIATION

Section 1. Creation and Purposes. The Declarant shall form an Illinois not-for-profit corporation to be known as the Larsen Marina (or City) Owners Association, which shall provide for:

- (a) The maintenance of the Property in compliance with the terms of the Consent Decree, including any appendices thereto, and any institutional controls that are required by the Consent Decree.
- (b) The authority to assess all Owners for the costs of compliance with the Consent Decree and to place a lien on Lots for such assessment(s) as set forth in Section 6 of this Article III.
- (c) The maintenance and promotion of the desired character of the Property.

[(for Larsen Only) Notwithstanding any provision in this Declaration to the contrary, Declarant's obligation to perform, carry out and enforce the terms of this Declaration, including but not limited to, the formation of the Association shall commence only upon recording of a deed at the Office of the Recorder of Deeds for Lake County conveying an interest in part or in all of the Property ("Conveyance Date").] [For City, City has agreed to commence formation upon entry of the Consent Decree.]

Section 2. Board of Directors and Officers. The Association shall have a Board of not less than 3 directors who shall be elected by the Members of the Association at such intervals as the By-Laws of the Association shall provide, except that vacancies in the Board occurring between regularly scheduled meetings of the Members may be filled by the Board if so provided by the By-Laws and that the first Board and subsequent Boards (until Declarant has turned over control of the Association to the Members, as provided in Section 3 of this Article V) shall be appointed by the Declarant and shall be 3 in number. The Association shall have such officers as shall be appropriate from time to time, who shall be elected by the Board and who shall manage and conduct the affairs of the Association under the direction of the Board. Except as expressly otherwise provided by the Articles of Incorporation or the By-Laws, all power and authority to act on behalf of the Association both pursuant to this Declaration and otherwise shall be vested in its Board from time to time and its officers under the direction of the Board, and shall not be subject to any requirement of approval on the part of its Members. The By-Laws of the Association shall include such added provisions for the protection and indemnification of its officers and directors as shall be permissible by law. The directors and officers of the Association shall not be liable to the Owners or others for any mistake of judgment or any acts or

omissions made in good faith as such directors or officer. The Owners shall indemnify and hold harmless each of such directors or officers against all contractual liability arising out of contracts made by such directors or officers on behalf of the Owners of the Association, unless any such contracts shall have been made in bad faith or contrary to the provisions of this Declaration. The liability of any Owner arising out of any such contract made by the Board or officers or out of the aforesaid indemnity in favor of the directors or officers to the extent not covered by insurance, shall be limited to such Owner's proportionate share of the total liability.

Section 3. Turnover Date. The Declarant shall through the Board appointed by it in accordance with Section 2 of this Article, exercise control over all Association matters, until the Conveyance Date. The date upon which the authority to appoint the Board passes to the Members shall be hereinafter referred to as the "Turnover Date."

Section 4. Membership and Voting.

(a) Every person or entity who is record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including a contract seller, shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership but may own more than one lot or fractional part thereof. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification of membership. Nothing herein contained shall be interpreted to exclude Declarant from membership while it or its successors in interest, if any, owns one or more Lots.

(b) From and after the time that the Declarant has relinquished its authority to appoint the directors as hereinabove provided, each Member shall be entitled to one (1) vote for each acre or fractional share of an acre owned by such Member thereof on each matter submitted to a vote of Members for each Lot owned by such Member, provided, that where title to a Lot or fractional part of a Lot is in more than one person, such co-owners acting jointly shall be entitled to but one vote for each acre or fractional share, as the case may be. Accordingly, if an Owner's Lot consists of 1.75 acres, the Owner shall have 1.75 votes out of 6.70 available votes. When more than one person holds such interest as Owner in any Lot, all such persons shall be Members but they may only vote their votes as a group.

Section 5. Powers and Duties of the Association. The Association, through the Board, shall have the following powers and duties:

(a) Provide for compliance with the Consent Decree and any appendices thereto including the Declaration of Environmental Easement and any institutional controls required by the Consent Decree.

(b) The authority to assess all owners of Lots for the costs of compliance required in paragraph (a) above and to place a lien on the Lots for such assessment(s) as set forth in Section 6 of Article III.

(c) The authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, provided that any contract with a person or firm appointed as a manager of managing agent shall provide for the right of the Association to terminate the same at the first annual meeting of the Members of the Association after such appointment.

(d) Establish and maintain a working capital and contingency fund in an amount to be determined by the Board.

(e) Exercise all other powers and duties vested in or delegated to the Association, and not specifically reserved to the Voting Members by the Articles of Incorporation, the Declaration or By-Laws.

Section 6. Maintenance Assessments.

(a) Declarant shall collect, from each initial purchaser of a Lot at the closing of the sale of such Lot, the sum of \$500 which shall be allocated to the "Working Capital Fund" for the Association to be utilized for the Association's working capital needs from time to time plus the pro rata amount of the Annual Assessment due for the portion of such year following the closing, which assessment amount shall be determined by the Board.

The Declarant shall have no right to utilize any of funds received from an initial purchaser prior to the Turnover Date.

(b) Each Owner, by acceptance of a deed or other conveyance from the Declarant, its successors or assigns, is deemed to covenant and agree to pay to the Association annual assessments or charges and special assessments for capital improvements and unforeseen expenses, to be collected from time to time as hereinafter provided in this Declaration, together with By-Laws of the Association. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Property against which each such assessment is made. Each such assessment, together with such interests, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation shall not pass to the Owner's successors in title unless expressly assumed by them.

(c) The assessment levied by the Association shall be used exclusively for the purpose of promoting the health, safety and welfare of the Owners in the Property, and in complying with the Consent Decree. Such uses shall include, but are not limited to, the cost of the Association of all taxes, insurance, repair, replacement and maintenance and other charges required by the Declaration or that the Board shall determine to be necessary or desirable to meet the primary purpose of the Association, including the establishment and maintenance of a reserve for repair, maintenance, replacements, taxes, and other charges as specified herein.

(d) In addition to the annual assessments authorized above, the Association may levy in any assessment year a special assessment applicable to that year only

(e) Both annual and special assessments must be fixed at a uniform amount for all Lots. Annual assessments shall be collected, in advance, on a yearly basis.

(f) The annual assessments provided for herein shall commence for all Lots then subject to assessment hereunder on the first day of the month following the Turnover Date. The Board shall fix the amount of the annual assessment of each annual assessment period and in lieu thereof, the amount of the prior year's annual assessment shall be the fixed amount. Any Lot conveyed by Declarant to a third-party purchaser after the commencement of the obligation to pay assessments shall be payable as follows: The Owner shall pay to Declarant (for delivery to the Association) the pro rata amount of the annual assessment due for the portion of such year following the closing. The Association shall upon demand at any time furnish a certificate in writing signed by an Officer or agent of the Association setting forth whether the assessments on a specified Lot have been paid. Such certificates shall be conclusive evidence of payment of any assessment therein.

(g) Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within 30 days after the due date, the assessment shall bear interest from the date of delinquency at the rate allowed by law or 18%, whichever is less, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. To the extent permitted by any decision or statute now or hereafter effective, the amount of any delinquent and unpaid charges or assessments and interest, costs and fees as above provided, shall be and become a lien or charge against the Lot of the Owner involved when payable and may be foreclosed by an action brought in the name of the Board as in the case of foreclosure of liens against real estate. Each Owner, by such Owner's acceptance of a deed to a Lot, hereby expressly vest in the Association, or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges as a debt, and to enforce the aforesaid lien by all methods available for the enforcement of such liens. In addition, if any Owner shall default in the payment when same shall be due, of the aforesaid charges or assessments and default shall continue for 30 days after notice to the Owner by the Board, setting forth the amount of unpaid charges or assessments together with a demand for payment thereof, the Board shall have the right to declare the default a Forcible Detainer of the Lot and shall have the right, on behalf of the other Owners, to enter and take possession of the Lot from the defaulting Owner, to put out the Owner, or any occupant or tenant claiming by, through or under the Owner, and to exercise any of the rights and remedies set forth in the Forcible Entry and Detainer provisions of the Illinois Compiled Statutes, as amended from time to time.

(h) The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed on the Lots prior to the effective dates of such liens. In the event of the issuance of a deed, pursuant to the foreclosure of such prior

mortgage or in lieu of such foreclosure, the grantee of such deed shall take title free and clear of any lien herein provided which may accrue prior to the recording to such deed.

(i) The regular yearly assessment shall be determined by the affirmative vote of 2/3 of the Board of the Association.

Section 7. Dissolution of Association. All Owners, by acceptance of a deed to a Lot, covenant and agree that in the event the Association shall be dissolved, all restrictions and obligations created herein shall remain in full force and effect.

Section 8. Insurance. The Board shall also have the authority to and shall obtain comprehensive public liability insurance, including liability for injuries to and death of persons, and property damage, in such limits as it shall deem desirable, and workman's compensation insurance, and other liability insurance as it may deem desirable, insuring each Owner, the Association, its officers, members of the Board, the Declarant, and their respective employees and agents from liability and insuring the officers of the Association and members of the Board from liability for good faith actions beyond the scope of their respective authority. Such insurance coverage shall include cross liability claims of one or more insured parties against other insured parties. The premiums for such insurance shall be common expenses payable out of the proceeds of the assessments required by and collected in accordance with Section 6 of this Article.

Section 9. Interim Procedure.

(a) Until each of the various Lots shall have been conveyed by the Declarant to the first Owner thereof (or to such Owner's nominee) the Declarant shall, with respect to each such unsold Lot, have all of the rights granted to the Owners.

(b) Until the Association shall have been organized and shall have assumed its duties, i.e. the Conveyance Date, the Declarant shall have all the rights, powers, duties and obligations herein granted to, or imposed upon, the Association and shall be authorized and empowered to take all such actions as the Board would have been authorized and empowered to take if the Association had then been formed. Alternatively, until the initial meeting of the Members, the Declarant may appoint the Board (as more fully provided in Section 3 of this Article) which shall have the same powers and authority as given to the Board generally.

ARTICLE IV
EASEMENTS FOR THE ASSOCIATION

Easements of Use. A non-exclusive, perpetual easement is hereby declared and created over and upon the Property for the benefit of the Association, which shall have a right of access to and of ingress and egress on, over, across, in, upon and to the Property for the purpose of carrying out its obligations under the Consent Decree and the Declaration of Environmental Easement, as the case may be as provided in this Declaration. The easements granted in this Article shall run with the land and be binding upon the successors and assigns of the Declarant.

ARTICLE V

GENERAL PROVISIONS

Section 1. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Board, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, in perpetuity from the date this Declaration is recorded, after which time such covenants and restrictions shall be automatically extended for successive periods of 20 years, subject to amendment as hereinabove set forth.

Section 2. If and to the extent that any of the covenants or restrictions would otherwise be unlawful or void for violation of (a) the rule against perpetuities, (b) the rule restricting restrains on alienation, or (c) any other applicable statute or common law rule analogous thereto or otherwise imposing limitations upon the time for which such covenants may be valid, then the provision concerned shall continue and endure only until the expiration of a period of 21 years after the death of the last to survive of the class of persons consisting of all of the lawful descendants of George W. Bush, President of the United States and Rod Blagojevich, Governor of Illinois.

Section 3. If at any time or times the Board shall deem it necessary or advisable to rerecord this Declaration or any part hereof in the Office of the Recorder of Deeds of Lake County, Illinois in order to avoid the expiration hereof or of any of the covenants, easements, agreements or other provisions herein contained under any of the provisions of the Illinois Compiled Statutes presently in force, or any other law or statute of similar purport, they shall submit the matter to a meeting of the Members of the Association called upon not less than 10 days notice, and unless at such meeting at least 2/3 of such Members shall vote against such rerecording, the Association shall have, and is hereby granted power to so rerecord this Declaration or such part thereof, and such rerecording shall be binding upon all Owners of any part of the Property in every way and with all the full force and effect as though such action were taken by each of the Owners and the rerecorded document executed and acknowledged by each of them.

Section 4. Each grantee of Declarant by the acceptance of a deed of conveyance, and each purchaser under any contract for such deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land, and shall bind any person having at any time any interest or estate in the land, and shall inure to the benefit of such person in like manner as though the provisions of this Declaration were recited and stipulated at length in each and every deed of conveyance, or in any mortgage or trust deed or other evidence of obligation, and the rights described in this Section 4 or described in any other part of this Declaration shall be sufficient to create and reserve such easements and rights to the

respective grantees, mortgagees and trustees of such Lot ownership as fully and completely as though such rights were recited fully and set forth in their entirety in such documents.

Section 5.

(a) Declarant, Association and each Owner or Owners of any of the Property from time to time shall have the right jointly and separately to sue for and obtain a prohibitive or mandatory injunction to prevent the breach of, or to enforce the observance of, the covenants and restrictions above set forth, or any of them, in addition to the right to bring an ordinary legal action for damages. In no event shall the failure of Declarant, Association or such Owners to enforce any of the covenants herein set forth due to a particular violation be deemed to be a waiver of the right to do so as to any subsequent violation.

(b) In the event the Association fails to fulfill its responsibilities under this Declaration, either the U.S. EPA or the Illinois EPA may carry out such responsibilities, but shall not be obligated to do so, and the costs thereof, including reasonable attorneys fees may be recorded as a lien on the title to all Lots, which may be foreclosed by court action initiated by the U.S. EPA or the Illinois EPA, as the case may be and in addition, the U.S. EPA or the Illinois EPA, as the case may be may bring an action at law against the Owner or Owners of record of such Lots.

(c) In addition, if the Association fails to enforce the provisions of the Consent Decree of the Declaration of Environmental Easements, the U.S. EPA or the Illinois EPA shall have the right to sue for and obtain a prohibitive or a mandatory injunction to prevent the breach of, or to enforce the observance of, or any of them, in addition to the right to bring an ordinary legal action for damages. In the event the U.S. EPA or the Illinois EPA is required to bring legal action to enforce their rights under this Declaration, then it shall be entitled to damages and costs, including reasonable attorneys' fees, if it prevails.

Section 6. Subject to the provisions of Section 7 of this Article, the record Owners in fee simple of the Lots in the Property may, by a 2/3 written vote of all Voting Members revoke, modify, amend or supplement in whole or in part any or all of the covenants and conditions contained in this Declaration and may release from any part or all of such covenants all or any part of the real property subject thereto except as provided below for the covenants and conditions set forth in Article III, Sections 1(a), 1(b), 5(a) and 5(b) and Article V, Section 5(b) and 5(c). Any such change or changes may be made effective at any time by the Declarant, so long as Declarant owns any Lots in the Development, and the Owners of at least 2/3 of the Lots not owned by Declarant consent thereto. Any such changes shall be effective only if expressed in a written instrument or instruments executed and acknowledged by each of the consenting Owners, certified by the Secretary of the Association and recorded in the Office of the Recorder of Deeds of Lake County, Illinois. Any revocation, modification, amendment or supplement hereto must be approved in writing by the U.S. EPA or the Illinois EPA as the case may be except where each of the following applies: (i) the rights and obligations of U.S. EPA and the Illinois EPA hereunder are not affected thereby; (ii) the time for establishing the Association hereunder is not delayed; and (iii) the ability of the Association to carry out and effect

compliance with the purposes set forth in Section 1 of Article III hereof is not impaired or limited..

Section 7. Declarant reserves the right and power to record a special amendment ("Special Amendment") to this Declaration at any time and from time to time which amends this Declaration (i) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto or (ii) comply with any applicable laws or ordinances.

In addition, a Special Amendment shall be also deemed to include, until the Turnover Date, such amendment to this Declaration as Declarant elects to record at any time and from time to time for any other purpose. Any amendment affecting the rights or obligations of the U.S. EPA or the Illinois EPA or the provisions of Article III, Sections 1(a), 1(b), 5(a) and 5(b) and Article V, Section 5(b) and 5(c). hereunder must be approved in writing by the U.S. EPA or the Illinois EPA as the case may be.

In furtherance of the foregoing, a power coupled with an interest, is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to a Special Amendment on behalf of each mortgage, trust deed, other evidence or obligation, or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to vote in favor of, make, execute and record Special Amendments. The right of the Declarant to act pursuant to rights reserved or granted under this section shall terminate at such time as the Declarant no longer holds or controls title to any Lot.

Section 8. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for development.

Section 9. In the event title to any Lot is conveyed to a titleholding trust, under the terms of which all powers of management, operation and control of the Lot remain vested in the trust beneficiary or beneficiaries, then the beneficiaries thereunder from time to time shall be responsible for payment of all obligations, liens or indebtedness and for the performance of all agreements, covenants and undertakings chargeable or created under this Declaration against such Lot. No claim shall be made against any such titleholding trustee personally for payment of any lien or obligation hereunder created and the trustee shall not be obligated to sequester funds or trust property to apply, in whole or in part, against such lien or obligation. The amount of such lien or obligation shall continue to be a charge or lien upon the Lot and the beneficiaries of such trust notwithstanding any transfers of the beneficial interest of any such trust or any transfers of title to such Lot.

Section 10. All articles and section headings set forth herein are intended for convenience only and shall not be given or construed to have any substantive effect on the provisions of this Declaration.

Section 11. If a court of competent jurisdiction shall hold invalid or unenforceable any part of any covenant or provision contained in this Declaration, such holding shall not impair,

invalidate or otherwise affect the remainder of this Declaration which shall remain in full force and effect.

Section 12. At any time or times Declarant may assign any or all of its rights conferred on it as set forth in this Declaration and upon its execution of any assignment by Declarant, it shall be relieved from any liability arising from the performance or non-performance of such rights or obligations.

Section 13. Each Owner of a Lot shall file the correct mailing address of such Owner with Declarant and shall notify Declarant promptly in writing of any subsequent change of address. Declarant shall maintain a file of such addresses and make the same available to the Association. A written or printed notice, deposited in the United States Post Office, postage prepaid, and addressed to any Owner at the last address filed by such Owner with Declarant shall be sufficient and proper notice to such Owner wherever notices are required in this Declaration.

Section 14. The singular shall include the plural wherever the Declaration so requires, and the masculine shall include the feminine and neuter and vice versa.

Notary Public

**EXHIBIT A
TO THE
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR THE
LARSEN MARINE OWNERS ASSOCIATION**

The "Property," as defined in the Declaration is legally described as follows:

A TRACT OF LAND IN THE NORTH WEST 1/4 OF SECTION 22, TOWNSHIP 45 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS, TO WIT: COMMENCING AT THE SOUTH WEST CORNER OF SAID NORTH WEST 1/4 IN WAUKEGAN TOWNSHIP, LAKE COUNTY, ILLINOIS; THENCE NORTHEASTERLY MAKING A NORTH EAST ANGLE OF 89 DEGREES 29 MINUTES WITH THE EAST AND WEST QUARTER LINE OF SAID SECTION 22, TO A POINT ON THE NORTH LINE OF CITY STREET, 666 FEET FROM, MEASURED AT RIGHT ANGLES, THE EAST AND WEST QUARTER OF SAID SECTION 22; THENCE EAST WITH AND ALONG THE NORTH LINE OF SAID CITY STREET, PARALLEL WITH THE EAST AND WEST CENTER LINE OF SAID SECTION 22, 585.37 FEET TO A POINT ON THE NORTHWESTERLY LINE OF HARBOR STREET; THENCE NORTHEASTERLY WITH AND ALONG SAID NORTHWESTERLY LINE OF HARBOR STREET AND MAKING A NORTHEASTERLY ANGLE OF 75 DEGREES 12 MINUTES 10 SECONDS WITH THE LAST DESCRIBED COURSE EXTENDED EAST, 119.43 FEET TO A POINT; THENCE EAST, PARALLEL WITH AND 181.47 FEET FROM, MEASURED AT RIGHT ANGLES, THE SAID CENTER LINE OF SAID SECTION 22, 373.61 FEET TO A POINT; THENCE NORTHEASTERLY MAKING A NORTHEASTERLY ANGLE OF 60 DEGREES 01 MINUTES 15 SECONDS WITH LAST DESCRIBED COURSE EXTENDED EAST 417.44 FEET TO A POINT WHICH IS 543.06 FEET NORTH (MEASURED AT RIGHT ANGLES) OF THE EAST AND WEST CENTER LINE OF SECTION 22, AFORESAID, WHICH FOR THE PURPOSE OF REFERENCE IN THIS DESCRIPTION IS HEREINAFTER REFERRED TO AS AN EAST AND WEST LINE HAVING A BEARING OF NORTH 90 DEGREES EAST OR NORTH 90 DEGREES WEST; CONTINUING THENCE NORTH 29 DEGREES 58 MINUTES 45 SECONDS EAST ALONG THE LAST DESCRIBED LINE EXTENDED NORTHEASTERLY, A DISTANCE OF 16.03 FEET TO A POINT; THENCE NORTH 10 DEGREES 31 MINUTES 36 SECONDS EAST A DISTANCE OF 649.64 FEET TO A POINT, SAID POINT HEREINAFTER REFERRED TO AS POINT 'A' FOR PURPOSES OF THIS DESCRIPTION; THENCE CONTINUING NORTH 10 DEGREES 31 MINUTES 36 SECONDS EAST A DISTANCE OF 215.22 FEET MORE OR LESS, TO A POINT, SAID POINT BEING THE PLACE OF BEGINNING OF THE PARCEL HEREIN BEING DESCRIBED; THENCE CONTINUING NORTH 10 DEGREES 31 MINUTES 36 SECONDS EAST, 234.83 FEET TO A POINT WHICH IS 330.51 FEET SOUTH 10 DEGREES 31 MINUTES 36 SECONDS WEST FROM THE NORTH WEST CORNER OF A TRACT OF LAND CONVEYED BY WILLIAM H. BAEHR ON MARCH 14, 1927 AS DOCUMENT 295716; THENCE NORTH 90 DEGREES EAST, 110.10 FEET TO A POINT; THENCE NORTH 10 DEGREES 31 MINUTES 36 SECONDS EAST A DISTANCE OF 330.51 FEET TO THE NORTH LINE OF THE TRACT DESCRIBED IN DOCUMENT 295716, BEING A POINT ON A LINE DRAWN PARALLEL WITH THE EAST AND WEST CENTER LINE OF SECTION 22 AND 1420.0 FEET NORTH-OF POINT 'A' (MEASURED ALONG A LINE DRAWN AT RIGHT ANGLES TO THE EAST AND WEST CENTER LINE THROUGH SAID POINT 'A'); THENCE NORTH 90 DEGREES EAST, 475.00 FEET TO A POINT; THENCE SOUTH 00 DEGREES EAST, 478.66 FEET TO A POINT; THENCE SOUTH 85 DEGREES 20 MINUTES 26 SECONDS WEST, 300.70 FEET TO A POINT; THENCE SOUTH 06 DEGREES 08 MINUTES 25 SECONDS EAST, 22.17 FEET TO A POINT; THENCE SOUTH 85 DEGREES 30 MINUTES 50 SECONDS WEST, 392.25 FEET MORE OF LESS TO THE PLACE OF BEGINNING IN LAKE COUNTY, ILLINOIS.

This instrument was prepared by and should be mailed after recording to:

Mark Steger
HOLLAND & KNIGHT LLC
131 S. Dearborn St., 30th Floor
Chicago, Illinois 60603

Property commonly known as:

_____, Waukegan, Lake County, Illinois

**EXHIBIT B
TO
DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
THE LARSEN MARINE OWNERS ASSOCIATION**

**BY-LAWS OF
LARSEN MARINE OWNERS ASSOCIATION
AN ILLINOIS NOT FOR PROFIT CORPORATION**

**ARTICLE I
NAME OF CORPORATION**

The name of this corporation is the Larsen Marine Owners Association.

**ARTICLE II
PURPOSE AND POWERS**

2.01 **PURPOSES.** The purposes of this Association are to act on behalf of its members collectively, as their governing body for civic functions and other purposes, with respect to the preservation, care, maintenance, replacement, improvement, enhancement, operation and administration of both real and personal property and for the promotion of the health, safety and welfare of the Members of the Association, all on a not-for-profit basis. These By-Laws are attached as Exhibit B to the Declaration of Covenants, Conditions, Restrictions and Easements for the Larsen Marine Owners Association ("Declaration"). All terms used herein shall have the meanings set forth in the Declaration.

2.02 **POWERS.** The Association shall have and exercise all powers as are now or may hereafter be granted by the General Not For Profit Corporation Act of the State of Illinois, the Declaration and these By-Laws.

2.03 **PERSONAL APPLICATION.** All present or future Owners, tenants, future tenants, and their agents and employees, and any other person that might use the facilities of the Property in any manner, shall be subject to the provisions of the Declaration and these By-Laws. The mere acquisition or rental of a Lot or the mere act of occupancy of a Lot will signify that the Declaration and these By-Laws are accepted, ratified and will be complied with.

ARTICLE III

OFFICES

3.01 **REGISTERED OFFICE.** The Association shall have and continuously maintain in this state a registered office and a registered agent whose office is identical with such registered office, and may have other offices within or without the State of Illinois as the Board may from time to time determine.

3.02. **PRINCIPAL OFFICE.** The Association's principal office shall be maintained on the Development or at the office of a managing agent engaged by the Association.

ARTICLE IV

MEETINGS OF MEMBERS

4.01 **VOTING RIGHTS.** The Association shall have one class of membership. There shall be one individual with respect to each Unit who shall be entitled to vote at any meeting of the Owners (the "Voting Member"). If the Owner of a Unit is one individual, then such individual shall be the Voting Member. If the Record Ownership of a Unit shall be in more than one individual or if the Owner is a trustee, corporation, partnership or other legal entity, then the Voting Member shall be designated by the Owner or by a majority of Owners in writing to the Board. If in the case of multiple individual Owners no designation is given and only one of the multiple Owners is present at a meeting of the Owners, then he is entitled to cast all the votes allocated to that Unit. If in the case of multiple individual Owners no designation is given and more than one of the multiple Owners are present at a meeting, the votes allocated to that Unit may be cast only in accordance with the agreement of a majority in interest of the multiple Owners, provided that the Board shall consider a majority agreement if any one of the multiple Owners casts the votes allotted to the Unit without protest being made promptly to the person presiding over the meeting by any of the other Owners of the Unit. Any or all Owners may be present at any meeting of the Owners, but the voting rights shall be vested exclusively in the Voting Members; provided, however, that a Voting Member may vote either in person or by proxy executed and dated in writing by the Voting Member or his duly authorized attorney-in-fact and filed with the secretary before the meeting. No proxy shall be valid after 11 months from the date of its execution, unless otherwise provided in the proxy. Except as otherwise specifically provided in the Declaration or these By-Laws, each Voting Member shall have one vote.

4.02 **PLACE OF MEETING; QUORUM.** Meetings of the Owners shall be held on the Property or at such other place in the County in which the Property is located and convenient to the Owners as may be designated in any notice of a meeting. All meetings shall be conducted in accordance with the rules and provisions set forth in Roberts Rules of Order, as from time to time published. Voting Members holding 20% of the votes, represented in person or by proxy, shall constitute a quorum. The vote of a majority of the votes entitled to be cast by the Voting Members present or represented by proxy at a meeting at which a quorum is present, shall be necessary for the adoption of any matter voted upon by the Voting Members. The affirmative

vote of 75% of the votes entitled to be cast shall be required for the following action: (a) merger or consolidation of the Association; (b) sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all of the property and assets of the Association; and (c) purchase or sale of land or of Lots on behalf of all Owners.

4.03 ANNUAL MEETINGS. The initial meeting of the Owners shall be held upon not less than 21 nor more than 30 days' written notice given by the Declarant. If not called earlier by the Declarant, the initial meeting of the Owners shall be held on or before the Turnover Date. Thereafter there shall be an annual meeting of the Owners within 30 days from the anniversary date of the initial annual meeting at such time and on such date designated by the Board.

4.04 SPECIAL MEETINGS. Special meetings of the Owners may be called at any time for the purpose of considering matters which, by the terms of the Declaration, require the approval of all or some of the Voting Members or for any other reasonable purpose. Said meetings shall be called by written notice, authorized by the President, a majority of the Board or by Voting Members representing at least 20% of the votes.

4.05 NOTICE OF MEMBERSHIP MEETINGS. Written notice of any membership meeting shall be mailed or personally delivered and posted conspicuously on the Property, giving Owners not less than 10 nor more than 30 days notice of the time, place, and purpose of the meeting.

ARTICLE V

BOARD OF DIRECTORS

5.01 IN GENERAL. The affairs of the Association and the direction and administration of the Property shall be vested in the Board, which (after the Turnover Date) shall consist of 5 persons or such other number of persons as shall be fixed from time to time by the affirmative vote of 50% of the Voting Members ("Directors"). The Board shall have all of the powers granted to it under the Declaration, these By-Laws and the General Not For Profit Corporation Act of the State of Illinois.

5.02 DECLARANT DESIGNATED BOARDS. Anything herein to the contrary notwithstanding, until the first meeting of the Owners after the Turnover Date the Board shall consist of 3 individuals from time to time designated by the Declarant. Such individuals may, but need not, be Owners and shall serve at the discretion of the Declarant.

5.03 BOARDS AFTER TURNOVER DATE. At the first meeting of the Owners (which shall be held no later than the Turnover Date) the Voting Members shall elect the initial Board in the manner hereinafter provided to replace the Declarant designated Board established under Section 5.02. The Declarant shall give at least 21 days notice of the first meeting of the Owners to elect the initial Board and shall provide to any Owner within 3 working days of a written request from the Owner, the names, addresses and telephone numbers (if available) of each Owner entitled to vote at such meeting. Any Owner shall be provided with this same information within 3 working days of the request, with respect to each subsequent meeting to elect members of the Board.

From and after such meeting, each member of the Board shall be an Owner or a Voting Member, or both. Within 60 days after the election of a majority of the Board other than those designated by the Declarant, the Declarant shall deliver to the Board:

(a) All original documents as recorded or filed pertaining to the Property, its administration and the Association, such as the Declaration, the By-Laws, Articles of Incorporation, other Association instruments, annual reports, minutes and rules and regulations, contracts, leases, or other agreements entered into by the Association. If any original documents are unavailable, a copy may be provided if certified by affidavit of the Declarant, or an officer or agent of the Declarant, as being a complete copy of the actual document as recorded or filed.

(b) An accounting of all receipts and expenditures made or received on behalf of the Association by the Declarant designated Boards and copies of all insurance policies and a list of any loans or advances to the Association which are outstanding.

(c) All Association funds and bank accounts.

(d) A schedule of all real or personal property, equipment and fixtures belonging to the Association including documents transferring the property to the Association, warranties, if any, for all real or personal property and equipment, deeds, title insurance policies and all tax bills.

(e) A list of all litigation, administrative action and arbitrations involving the Association, any notices of governmental bodies involving actions taken or which may be taken by the Association, engineering and architectural drawings and specifications as approved by any governmental authority, all other documents filed with any other governmental authority, all governmental certificates, correspondence involving enforcement of any Association requirements, copies of any documents relating to disputes involving Owners, originals of all documents relating to everything listed in this subparagraph.

5.04 ELECTION. At the initial meeting of the Owners, the Voting Members shall elect a full Board of Directors. The two Directors receiving the highest number of votes shall serve a term of two years and the one other Director shall serve a term of one year. Thereafter each Director shall serve a term of two years. Each Director shall hold office until his term expires or until his successor shall have been elected and qualified. Directors may succeed themselves in office. In all elections for members of the Board, the Voting Member for each Unit shall be entitled to the number of votes equal to the number of Directors to be elected (cumulative voting shall not be permitted). The candidates receiving the highest number of votes with respect to the number of offices to be filled shall be deemed to be elected.

5.05 ANNUAL MEETINGS. The Board shall hold an annual meeting within 10 days after the annual meeting of the Owners at such place as shall be fixed by the Directors at the annual meeting of the Owners.

5.06 REGULAR MEETINGS. Regular meetings of the Board shall be held at such time and place as shall be determined at the annual meeting or, from time to time, by a majority of the Directors, provided that from and after the Turnover Date, not less than four such meetings shall be held during each fiscal year.

5.07 SPECIAL MEETINGS. Special meetings of the Board may be called by the President or by at least one-third (1/3) of the Directors then serving.

5.08 NOTICE OF BOARD MEETINGS. Notice of each meeting of the Board shall be mailed or personally delivered to each Director at least 48 hours prior to the meeting and notice of any meeting of the Board concerning the adoption of the proposed annual budget or any increase or establishment of an assessment shall be given to each Owner in the same manner as provided in Paragraph 4.05 of these By-Laws, unless a written waiver of such notice is signed by the person or persons entitled to such notice before the meeting is convened.

5.09 OPEN MEETINGS. Each meeting of the Board shall be open to any Owner except for the portion of any meeting held (i) to discuss litigation when an action against or on behalf of the Association has been filed and is pending in a court or administrative tribunal, or when the Board finds that such an action is probable or imminent, (ii) to consider information regarding appointment, employment or dismissal of an employee, or (iii) to discuss violations of rules and regulations of the Association or an Owner's unpaid share of the Assessment attributable to expenses of the Association. Any vote taken on any of the matters set forth in subparagraphs (i), (ii) or (iii) above shall be taken at a meeting or portion thereof open to any Owner. Notice of such meeting shall be mailed or personally delivered and posted conspicuously upon the Property at least 48 hours prior thereto, unless a written waiver of such notice is signed by the person or persons entitled to such notice before the meeting is convened. The Board may adopt reasonable rules governing the conduct of Owners who attend meetings and Owners who do not comply with such rules may be removed from the meeting. Any Owner may record the proceedings at a meeting required to be open by tape, film or other means and the Board may prescribe reasonable rules and regulations to govern the right to make such recordings.

5.10 QUORUM. A majority of the Directors serving from time to time shall constitute a quorum for the election of officers and for the transaction of business at any meeting of the Board. Except as otherwise expressly provided herein or in the Declaration, any action may be taken upon the affirmative vote of a majority of the Directors present at a meeting at which a quorum is present.

5.11 COMPENSATION/REIMBURSEMENT FOR EXPENSES. No Director shall be compensated by the Association for services rendered to the Association, except as expressly provided in a resolution duly adopted by the Voting Members. Upon the presentation of receipts or other appropriate documentation, a Director shall be reimbursed by the Association for reasonable out-of-pocket expenses incurred in the course of the performance of his duties as a Director.

5.12 REMOVAL OR RESIGNATION OF DIRECTOR. Any Director may be removed from office, with or without cause, by action of the Voting Members at any annual meeting or at a special meeting called for such purpose. Any Director whose removal has been proposed by the Owners shall be given an opportunity to be heard at the meeting. Any Director may resign at any time by submitting his written resignation to the Board. If a Director ceases to be an Owner or a Voting Member, he shall be deemed to have resigned as of the date of such cessation.

A successor to fill the unexpired term of a Director who resigns or is removed may be appointed by a two-thirds (2/3) majority of the remaining Directors to serve until the next meeting of the Owners or for a period terminating no later than 30 days following the filing of a petition signed by the Owners holding 20% of the votes of the Association requesting a meeting of the Owners to fill the vacancy for the balance of the term. Such meeting of the Owners shall be called for purposes of filling a vacancy on the Board no later than 30 days following the filing of a petition signed by the Owners holding 20% of the votes of the Association requesting such a meeting.

5.13 POWERS AND DUTIES OF THE BOARD. The Board shall have all of the powers and duties granted to it or imposed upon it by the Declaration, these By-Laws, and the Illinois General Not For Profit Corporation Act, including, without limitation, the following powers and duties:

- (a) To procure insurance as provided for in the Declaration;
- (b) To engage the services of a manager or managing agent to assist the Association in performing and providing such services as the Association is required to provide to its members under the Declaration;
- (c) To provide for the designation, hiring and removal of such employees and such other personnel, including attorneys and accountants, as the Board may, in its discretion, deem necessary or proper for the effective administration of the Association;
- (d) To provide for compliance with the Consent Decree, and the Declaration of Environmental Easement for which the Association is responsible under the Declaration and these By-Laws, including but not limited to the power to enter into and carry out an agreement with any Owner and to carry out powers and duties of the Board of Directors in such a manner that would be economical to the Association and its members;
- (e) To estimate and provide each Owner with an annual budget as provided for in the Declaration;
- (f) To set, give notice of, and collect assessments from the Owners as provided in the Declaration;

- (g) To adopt rules and regulations as provided in the Declaration;
- (h) To delegate the exercise of its power to committees appointed pursuant to Paragraph 7.01 of these By-Laws;
- (i) To own, convey, encumber, lease, or otherwise deal with Lots or other real property conveyed to or purchased, if any by the Association;
- (j) To keep detailed, accurate records of the receipts and expenditures affecting the use and operation of the Property;
- (k) To pay real property taxes, special assessments, and any other special taxes or charges of the State of Illinois or of any political subdivision thereof, or other lawful taxing or assessing body, which are authorized by law to be assessed and levied upon the real property; and
- (l) To impose charges for late payments of an Owner's proportionate share of the Association's expenses, or any other expenses lawfully agreed upon, and after notice and an opportunity to be heard, levy reasonable fines for violation of the Declaration, By-Laws, and rules and regulations of the Association.

ARTICLE VI

OFFICERS

6.01 **OFFICERS.** The officers of the Association shall be a President, one or more Vice Presidents, a Secretary, a Treasurer, and such assistants to such officers as the Board may deem appropriate. All officers shall be elected at each annual meeting of the Board and shall hold office at the discretion of the Board. Officers may succeed themselves in office. The President, Vice President, Secretary and Treasurer shall be Directors and all other officers may, but need not be, Directors.

6.02 **VACANCY OF OFFICE.** Any officer may be removed at any meeting of the Board by the affirmative vote of the majority of the Directors in office, either with or without cause, and any vacancy in any office may be filled by the Board at any meeting thereof.

6.03 **POWERS OF OFFICERS.** The respective officers of the Association shall have such powers and duties as are from time to time prescribed by the Board and as are usually vested in such officers of an Illinois Not For Profit Corporation including without limitation, the following:

- (a) The President shall be the Chief Executive Officer of the Association and shall preside at all meetings of the Owners and at all meetings of the Board and shall execute amendments to the Declaration and these By-Laws;

(b) The Vice President shall, in the absence or the disability of the President, perform the duties and exercise the powers of such office and other duties assigned by the Board. If neither the President nor the Vice President is able to act, the Board shall appoint some other member of the Board to act in the capacity of President on an interim basis;

(c) The Secretary shall keep minutes of all meetings of the Owners and of the Board and shall have custody of the Association Seal and have charge of such other books, papers and documents as the Board may prescribe, and shall be responsible for giving and receiving all notices to be given to or by the Association under the Declaration or these By-Laws; and

(d) The Treasurer shall be responsible for Association funds and securities and for keeping full and accurate accounts of all receipts and disbursements in the Association books of accounts kept for such purpose. The Treasurer shall be responsible for the deposit of all moneys and other valuable effects in the name, and to the credit, of the Association in such depositories as may from time to time be designated by the Board.

6.04 OFFICERS' COMPENSATION. The officers shall receive no compensation for their services except as expressly provided by a resolution duly adopted by the Voting Members.

ARTICLE VII

COMMITTEES DESIGNATED BY BOARD

7.01 BOARD COMMITTEES. The Board, by resolution adopted by a majority of the Directors in office, may designate one or more committees, each of which shall consist of two or more Directors, which committees, to the extent consistent with law and as provided in said resolution, shall have and exercise the authority of the Board in the management of the Association; but the designation of such committees and delegation thereto of authority shall not operate to relieve the Board, or any individual Director, of any responsibility imposed upon it or him by law.

7.02 SPECIAL COMMITTEES. Other committees not having and exercising the authority of the Board in the management of the Association may be designated by a resolution adopted by a majority of the Directors present at a meeting at which a quorum is present. Except as otherwise provided in such resolution, members of each such committee shall be Owners and the President of the Association shall appoint the members thereof. Any member thereof may be removed by the person or persons authorized to appoint such member whenever in their judgment the best interests of the Association shall be served by such removal.

7.03 TERM. Each member of a committee shall continue as such until the next annual meeting of the Board and until his successor is appointed, unless the committee shall be sooner terminated, or unless such member shall be removed from such committee, or unless such member shall cease to qualify as a member thereof.

7.04 CHAIRMAN. One member of each committee shall be appointed chairman.

7.05 VACANCIES. Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

7.06 QUORUM. Unless otherwise provided in the resolution of the Board designating a committee, a majority of the whole committee shall constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present shall be the act of the committee.

7.07 RULES. Each committee may adopt rules for its own government not inconsistent with the Declaration, these By-Laws or with rules adopted by the Board.

ARTICLE VIII

INSTRUMENTS, CHECKS, DEPOSITS AND FUNDS

8.01 EXECUTION OF INSTRUMENTS. The Board may authorize any officer or officers, agent or agents of the Association, in addition to the officers so authorized by these By-Laws, to enter into any contract or execute and deliver any instrument (including amendments to the Declaration or these By-Laws which must be executed by the Association) in the name of and on behalf of the Association and such authority may be general or confined to specific instances. In the absence of any such authorization by the Board, any such contract or instrument shall be executed by the President or a Vice President and attested to by the Secretary or an Assistant Secretary of the Association.

8.02 PAYMENTS. All checks, drafts, vouchers or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association shall be signed by such officer or officers, agent or agents of the Association, and in such manner as shall from time to time be determined by resolution of the Board. In the absence of such determination by the Board such instruments shall be signed by the Treasurer or an Assistant Treasurer and countersigned by the President or a Vice President of the Association.

8.03 BANK ACCOUNTS. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Board shall elect.

8.04 SPECIAL RECEIPTS. The Board may accept on behalf of the Association any contribution, gift, bequest, or devise for the general purposes or for any special purpose of the Association.

ARTICLE IX

FISCAL MANAGEMENT

9.01 FISCAL YEAR. The fiscal year of the Association shall be determined by the Board and may be changed from time to time, as the Board deems advisable.

9.02 ANNUAL STATEMENT. Within a reasonable time after the close of each fiscal year the Board shall furnish each Owner with an itemized accounting of the Association's expenses for such fiscal year actually incurred and paid, together with a tabulation of the amounts collected pursuant to the Annual Assessment budget, and showing the net excess or deficit of income over expenditures plus reserves.

9.03 ASSESSMENT PROCEDURE. (a) Annual assessments, special assessments and Master Association assessments shall be made and collected as provided in Article V of the Declaration, and the provisions of Article V are incorporated herein by reference.

(b) If an adopted budget requires assessment against the Owners in any fiscal year exceeding 115% of the assessments for the preceding year, the Board, upon written petition by Owners with 20% of the votes of the Association filed within 14 days of the Board action, shall call a meeting of the Owners within 30 days of the date of filing of the petition to consider the budget. Unless a majority of the votes of the Owners are cast at the meeting to reject the budget, it is ratified, whether or not a quorum is present. In determining whether assessments exceed 115% of similar assessments in prior years, any authorized provisions for reasonable reserves for repair or replacement of the Property, and anticipated expenses by the Association which are not anticipated to be incurred on a regular or annual basis, shall be excluded from the computation.

9.04 NO FORBEARANCE ON ASSESSMENT PAYMENT. Neither the Association nor the Board shall have authority to forebear the payment of assessments by any Owner.

ARTICLE X

BOOKS AND RECORDS

The Association shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its members, the Board, and committees having any of the authority of the Board, and shall keep at the registered or principal office of the Association a record giving the names and addresses of the members. All books and records of the Association may be inspected by any Owner, or his agent, mortgagee or attorney, for any proper purpose at any reasonable time.

ARTICLE XI

SEAL

The Board may provide for a corporate seal which shall be in the form of a circle and shall have inscribed thereon the names of the Association and the words "Corporate Seal, Illinois".

ARTICLE XII

AMENDMENTS

These By-Laws may be amended or modified at any time, or from time to time in the same manner as provided in Article V of the Declaration; provided, that no provision of these By-

Laws may be amended or modified so as to conflict with the provisions of the Declaration. These By-Laws may also be amended by the Declarant for the purposes and by the procedure set forth in Section 7 of Article V of the Declaration. No amendment to these By-Laws shall become effective until Recorded.

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